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September 11, 2009

BOB RILEY
GOVERNOR

Ms. Karen Higginbotham, Director
US EPA, Office of Civil Rights
1200 Pennsylvania Ave NW – Mail Code 1201A
Washington, D.C. 20460

Dear Ms. Higginbotham:

The Alabama Department of Environmental Management has received your notification of receipt of an administrative complaint involving Jefferson County. ADEM urges that EPA not accept for investigation the complaint as lodged against ADEM. The only charge lodged against ADEM is a general complaint that ADEM has failed to address air quality issues in Birmingham, Alabama and a specific allegation that ADEM has "tried to remove Shelby County for [sic] the EPA non-attainment status yet this federally funded agency does little to solve the air quality problems here in Birmingham, Alabama." Pursuant to Ala. Code § 22-28-23, the Jefferson County Board of Health has been designated as the local air pollution control program for Jefferson County, Alabama (which includes the city of Birmingham), and it is that agency which administers air pollution control regulations in Jefferson County. Additionally, while ADEM has recommended that Shelby County and parts of Walker County not be included in the non-attainment area, its recommendation was based solely on data indicating that those areas meet air quality standards; such recommendation was entirely appropriate based upon the scientific evidence and was not based on any discriminatory motive.

The relief requested by the complaint is both inappropriate and unnecessary. The complaint requests that EPA require ADEM to issue a Title VI policy. However, ADEM already has such a policy in place. In 2004, EPA's Office of Civil Rights conducted a Nondiscrimination Post Award Compliance Review which found that ADEM had established appropriate policies and procedures to address environmental justice and Title VI issues. Thus, the relief requested, requiring ADEM to issue a Title VI policy, is moot. In addition, the complaint asks EPA to reprimand ADEM "for poor performance." I am unaware of any power granted EPA which would authorize a "reprimand."

Finally, the complaint references attachments which purportedly support the last claim, but those attachments were not included in the materials provided me by EPA. I would appreciate receiving a copy of the attachments which purportedly support the claim that ADEM has performed poorly so that I can be fully advised of the charges made against ADEM.

Should you require any further information or wish to discuss the matter, please feel free to contact me.

Sincerely,

Onis "Trey" Glenn, III
Director

OTG/OR/ghe

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